

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY
Caption in Compliance with D.N.J. LBR 9004-2(c)

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Debtors-in-Possession*

In re:

Duro Dyne National Corp., et al.¹

Debtors.

JEANNE A. NAUGHTON, CLERK
FILED
OCT 17 2018
U.S. BANKRUPTCY COURT
BY TRENTON, NJ DEPUTY

Chapter 11

Case No. 18-27963 (MBK)

**ORDER APPOINTING A
LEGAL REPRESENTATIVE FOR FUTURE ASBESTOS PERSONAL INJURY
CLAIMANTS EFFECTIVE AS OF THE PETITION DATE**

The relief set forth on the following pages, numbered two (2) through and including five

(5), is hereby ORDERED.

Michael B. Kaplan

Michael B. Kaplan, USBS

10/17/2018

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's tax identification number, are: Duro Dyne National Corp. (4664); Duro Dyne Machinery Corp. (9699); Duro Dyne Corporation (3616); Duro Dyne West Corp. (5943); and Duro Dyne Midwest Corp. (4662).

Page: 2
Debtor: Duro Dyne National Corp., et al.
Case No.: 18-27963 (MBK)
Caption: Order Appointing a Legal Representative For Future Asbestos Personal Injury Claimants Effective as of the Petition Date

Upon consideration of the Debtors' Motion for Entry of an Order (the "Order") Appointing a Legal Representative For Future Asbestos Personal Injury Claimants Effective as of the Petition Date (the "Motion")², and upon the Certification of Lawrence Fitzpatrick in Support of the Debtors' Motion for an Order Appointing a Legal Representative for Future Asbestos Personal Injury Claimants Effective as of the Petition Date filed with the Motion; and the Court being satisfied that Lawrence Fitzpatrick is a disinterested person and represents no interest adverse to the Debtors' estates in the matters with respect to which the Legal Representative is to be employed; and it appearing that the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157(b) and 1334; and the Court having determined that granting the relief requested in the Motion is in the best interests of the Debtors, their estates and creditors; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that notice of the Motion is sufficient under the circumstances; and objections to the requested relief, if any, having been withdrawn or overruled *an evidentiary hearing held on October 15, 2018*, *MBK* on the merits; and after due deliberation and sufficient cause appearing therefor;

IT IS HEREBY ORDERED THAT:

For the reasons set forth on record by the Court on October 16, 2018 *MBK*

1. The Motion be, and hereby is, GRANTED.
2. Lawrence Fitzpatrick is appointed as the Legal Representative For Future Asbestos Personal Injury Claimants (the "Legal Representative") effective as of the Petition Date.
3. The Legal Representative is appointed subject to the following terms and conditions:

² Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Motion.

Page: 3
Debtor: Duro Dyne National Corp., et al.
Case No.: 18-27963 (MBK)
Caption: Order Appointing a Legal Representative For Future Asbestos Personal Injury Claimants Effective as of the Petition Date

- (a) Standing. The Legal Representative shall have standing under section 1109(b) of the Bankruptcy Code to be heard as a party-in-interest in every matter relevant to the Debtors' case, including, but not limited to, participating in objections to claims; participating in claims estimation; and participating in the process of formulating and confirming a plan of reorganization, and shall have such powers and duties of a committee, as set forth in section 1103 of the Bankruptcy Code, as are appropriate for a Legal Representative.
- (b) Engagement of Professionals. The Legal Representative may employ attorneys and other professionals consistent with sections 105(a), 327 and 1103 of the Bankruptcy Code, subject to prior approval of the Bankruptcy Court.
- (c) Compensation. Compensation, including professional fees and reimbursement of expenses, shall be payable to the Legal Representative and his professionals from the Debtors' estate, subject to approval of the Bankruptcy Court, and in accordance with the terms, conditions, and procedures set forth in any administrative orders regarding the payment of professional fees entered by the Bankruptcy Court in this case from time to time. Mr. Fitzpatrick agrees that he will be compensated at my current hourly rate of \$520, subject to periodic adjustment. The Retainer, as set forth in the Pre-Petition Future Claimants' Representative Agreement, may remain as security for payment.
- (d) Liability and Indemnification of the Legal Representative. The Legal Representative shall not be liable for any damages, or have any obligations other than prescribed by orders of the Bankruptcy Court, provided, however, that the Legal Representative may be liable for damages caused by his willful misconduct or gross negligence. The Legal Representative shall not be liable to any person as a result of any action or omission taken or made by the Legal Representative in good faith. The Company will indemnify and defend and hold harmless the Legal Representative and his partners, associates, principals and employees (the "Indemnified Parties"), to the fullest extent authorized by applicable law, from and against any losses, claims, damages, or liabilities (or actions in respect thereof) related

Page: 4
Debtor: Duro Dyne National Corp., et al.
Case No.: 18-27963 (MBK)
Caption: Order Appointing a Legal Representative For Future Asbestos Personal Injury Claimants Effective as of the Petition Date

to or resulting from any information provided to the Indemnified Parties by the Company that is knowingly inaccurate in any material respect at the time that it is provided to the Indemnified Parties by the Company as a result of misrepresentation, omission, or otherwise, unless the applicable Indemnified Party actually knew of such inaccuracy at the time of the misrepresentation, omission, or other occurrence, or unless such losses, claims, damages, or liabilities were caused by fraud or willful misconduct on the part of one or more of the Indemnified Parties in performing their obligations set forth under the terms and conditions of this letter. The rights provided by this paragraph shall not be exclusive of any other right that any Indemnified Party may have or hereafter acquire under any statute, provision of the Company's certificate of incorporation, bylaw, agreement, vote of stockholders or disinterested directors, or otherwise. In the event that full indemnification is not available to the Indemnified Parties as a matter of law, then, to the extent permitted by applicable law, their aggregate liability shall be limited to the total fees collected for the services rendered and, in any event, shall be limited by a final adjudication of their relative degree of fault and benefit received.

(e) Right to Receive Notices. The Legal Representative and his counsel shall be entitled to receive all notices and pleadings that are served upon any statutory committee and its counsel pursuant to applicable law or any and all orders entered in this chapter 11 case.

~~7. The Bankruptcy Court shall retain jurisdiction to resolve all disputes related to this~~

Order and the Motion. The Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

8. To the extent that there may be any inconsistency between the terms of the Motion, the Pre-Petition Future Claimants' Representative Agreement or this Order, the terms of this Order shall govern.

Page: 5
Debtor: Duro Dyne National Corp., et al.
Case No.: 18-27963 (MBK)
Caption: Order Appointing a Legal Representative For Future Asbestos Personal Injury Claimants Effective as of the Petition Date

9. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.